

### § 930.53

would be exempt from any volume regulation if, in that year, a restricted percentage is established.

(e) The Board, with the approval of the Secretary, may establish rules and regulations necessary and incidental to the administration of this section.

[61 FR 49942, Sept. 24, 1996 as amended at 67 FR 51714, Aug. 8, 2002]

### § 930.53 Modification, suspension, or termination of regulations.

(a) In the event the Board at any time finds that, by reason of changed conditions, any regulations issued pursuant to §§ 930.44 or 930.51 should be modified, suspended, or terminated, it shall so recommend to the Secretary.

(b) Whenever the Secretary finds, from the recommendations and information submitted by the Board or from other available information, that a regulation issued pursuant to §§ 930.44 or 930.51 should be modified, suspended or terminated with respect to any or all shipments of cherries in order to effectuate the declared policy of the Act, the Secretary shall modify, suspend, or terminate such regulation.

### § 930.54 Prohibition on the use or disposition of inventory reserve cherries.

Cherries that are placed in inventory reserve pursuant to the requirements of § 930.50, § 930.51, § 930.55, or § 930.57 shall not be used or disposed of by any handler or any other person except as provided in § 930.50 or in paragraphs (a), (b), or (c) of this section.

(a) If the Board determines that the total available supplies for use in commercial outlets are less than the amount needed to meet the demand in such outlets, the Board may recommend to the Secretary that a portion or all of the primary and/or secondary inventory reserve cherries be released for such use.

(b) The Board may recommend to the Secretary that a portion or all of the primary and/or secondary inventory reserve cherries be released for sale in certain designated markets. Such designated markets may be defined in terms of the use or form of the cherries.

(c) Cherries in the primary and/or secondary inventory reserve may be

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used at any time for uses exempt from regulation under § 930.62.

[67 FR 51714, Aug. 8, 2002]

EDITORIAL NOTE: At 66 FR 232, Jan. 3, 2001, in § 930.54 paragraph (a), the word "normal" was suspended indefinitely.

### § 930.55 Primary inventory reserves.

(a) Whenever the Secretary has fixed the free market tonnage and restricted percentages for any fiscal period, as provided for in § 930.51(a), each handler in a regulated district shall place in his or her primary inventory reserve for such period, at such time, and in such manner, as the Board may prescribe, or otherwise divert, according to § 930.59, a portion of the cherries acquired during such period.

(b) The form of the cherries, frozen, canned in any form, dried, or concentrated juice, placed in the primary inventory reserve is at the option of the handler. Except as may be limited by § 930.50(i) or as may be permitted pursuant to §§ 930.59 and 930.62, such inventory reserve portion shall be equal to the sum of the products obtained by multiplying the weight or volume of the cherries in each lot of cherries acquired during the fiscal period by the then effective restricted percentage fixed by the Secretary: *Provided*, That in converting cherries in each lot to the form chosen by the handler, the inventory reserve obligations shall be adjusted in accordance with uniform rules adopted by the Board in terms of raw fruit equivalent.

(c) Inventory reserve cherries shall meet such standards of grade, quality, or condition as the Board, with the approval of the Secretary, may establish. All such cherries shall be inspected by USDA. A certificate of such inspection shall be issued which shall show, among other things, the name and address of the handler, the number and type of containers in the lot, the grade of the product, the location where the lot is stored, identification marks (can codes or lot stamp), and a certification that the cherries meet the prescribed standards. Promptly after inspection and certification, each such handler shall submit, or cause to be submitted, to the Board, at the place designated by the Board, a copy of the certificate

of inspection issued with respect to such cherries.

(d) Handlers shall be compensated for inspection costs incurred on cherries placed in the primary inventory reserve. All reporting of cherries placed in, rotated in and out, or released from an inventory reserve shall be in accordance with rules and procedures established by the Board, with the approval of the Secretary. The Board could, with the approval of the Secretary, also limit the number of inspections of reserve cherries being rotated into inventory reserves for which the Board would be financially liable.

(e) Except as provided in § 930.54, handlers may not sell inventory reserve cherries prior to their official release by the Board. Handlers may rotate cherries in their inventory reserves with prior notification to the Board. All cherries rotated into the inventory reserve must meet the applicable inspection requirements.

**§ 930.56 Off-premise inventory reserve.**

Any handler may, upon notification to the Board, arrange to hold inventory reserve, of his or her own production or which was purchased, on the premises of another handler or in an approved commercial storage facility in the same manner as though the inventory reserve were on the handler's own premises.

**§ 930.57 Secondary inventory reserve.**

(a) In the event the inventory reserve established under § 930.55 of this part is at its maximum volume, and the Board has announced, in accordance with § 930.50, that volume regulation will be necessary to maintain an orderly supply of quality cherries for the market, handlers in a regulated district may elect to place in a secondary inventory reserve all or a portion of the cherries the volume regulation would otherwise require them to divert in accordance with § 930.59.

(b) Should any handler in a regulated district exercise his or her right to establish a secondary inventory reserve under paragraph (a) of this section, all costs of maintaining that reserve, as well as inspection costs, will be the responsibility of the individual handler.

(c) The secondary inventory reserve shall be established in accordance with §§ 930.55 (b) and (c) and such other rules and regulations which the Board, with the approval of the Secretary, may establish.

(d) The Board shall retain control over the release of any cherries from the secondary inventory reserve. No cherries may be released from the secondary reserve until all cherries in any primary inventory reserve established under § 930.55 have been released. Any release of the secondary inventory reserve shall be in accordance with the annual marketing policy and with § 930.54.

**§ 930.58 Grower diversion privilege.**

(a) *In general.* Any grower may voluntarily elect to divert, in accordance with the provisions of this section, all or a portion of the cherries which otherwise, upon delivery to a handler, would become restricted percentage cherries. Upon such diversion and compliance with the provisions of this section, the Board shall issue to the diverting grower a grower diversion certificate which such grower may deliver to a handler, as though there were actual harvested cherries. Any grower diversions completed in accordance with this section, but which are undertaken in districts subsequently exempted by the Board from volume regulation under § 930.52(d), shall qualify for diversion credit.

(b) *Eligible diversion.* Grower diversion certificates shall be issued to growers only if the cherries are diverted in accordance with the following terms and conditions or such other terms and conditions that the Board, with the approval of the Secretary, may establish. Diversion may take such of the following forms which the Board, with the approval of the Secretary, may designate: uses exempt under § 930.62; nonhuman food uses; or other uses, including diversion by leaving such cherries unharvested.

(c) *Application/mapping.* The Board, with the approval of the Secretary, shall develop rules and regulations providing for the diversion of cherries by growers. Such regulations may include, among other things: